THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4798 of 2002

ORDER:

This writ petition is filed seeking Mandamus declaring the notice dated 15.2.2002 issued by the first respondent proposing to auction certain properties of the petitioner as illegal and arbitrary.

It appears the petitioner being a member of second respondent-Primary Agricultural Cooperative Society, has obtained loan for purchase of a Tractor. Thereafter, he fell due in payment of the loan amount. A dispute was raised by the society and had obtained Certificate under Section 71 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). Thereafter, E.P. was filed and pursuant to the same, impugned auction notice dated 15.2.2002 was issued.

It is the contention of the learned counsel for petitioner that the petitioner was not aware of any proceedings that had taken place before the first respondent and also as to issuance of Certificate under Section 71 of the Act.

This Court, while admitting the writ petition on 16.3.2002, granted interim stay on condition of petitioner depositing an amount of Rs.25,000/- within a period of four weeks. It seems the petitioner has deposited the said amount and therefore, the interim order was made absolute on 13.7.2006.

Further, there is an effective alternative remedy available to the petitioner by way of filing appeal under Section 76 of the Act against the Certificate issued under Section 71 of the Act. The petitioner has not availed the said remedy and approached this Court directly by way of present writ petition.

In view of the fact that the petitioner has already deposited

certain amounts during the pendency of the writ petition and having regard to the facts and circumstances of the case, I am of the opinion that the petitioner be allowed to file appeal against the Certificate issued under Section 71 of the Act before the Cooperative Tribunal.

Accordingly, the petitioner is directed to file an appeal under Section 76 of the Act before the A.P. Cooperative Tribunal against the Certificate issued under Section 71 of the Act within a period of four weeks from the date of receipt of a copy of this order. On filing such appeal, the Tribunal shall entertain the same without raising any objection as to limitation and decide the matter on merits within three months thereafter. However, till the consideration of stay application to be filed by the petitioner along with the appeal, status quo as on today shall continue.

With the above observations and directions, the writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU,
J

Date: 17.8.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4798 of 2002

17.8.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4798 of 2002

Dated: 17th August, 2006

Between:

K.Vittal Reddy

.. Petitioner

and

The Deputy Registrar,
Officer on Special Duty,
Nizamabad District Central Bank Ltd.,
Nizamabad & another.

.. Respondents